

AMENDED IN SENATE AUGUST 15, 2006

AMENDED IN SENATE JUNE 20, 2006

AMENDED IN SENATE JUNE 7, 2006

AMENDED IN ASSEMBLY APRIL 5, 2006

AMENDED IN ASSEMBLY MARCH 29, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2441

Introduced by Assembly Member Klehs

February 23, 2006

~~An act to add Section 6597 to the Revenue and Taxation Code, relating to taxation.~~ *An act to add Section 5442.15 to the Business and Professions Code, relating to outdoor advertising.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2441, as amended, Klehs. ~~Sales and use tax fraud.~~ *Outdoor advertising.*

The Outdoor Advertising Act regulates placement of advertising signs adjacent to and within specified distances of highways that are part of the national system of interstate and defense highways and federal-aid highways. The act prohibits advertising displays from being placed or maintained on property adjacent to a section of a freeway that has been landscaped, with certain exceptions. A violation of the act is a misdemeanor.

This bill would authorize an advertising display in the redevelopment zone of the City of San Leandro subject to specified conditions.

This bill would set forth facts and declare that the provisions specified above constitute necessary special legislation.

~~The Sales and Use Tax Law imposes penalties for failure to file returns and for failure to remit the total taxes owed.~~

~~This bill would provide that any person who knowingly collects sales tax reimbursement or use tax, and who fails to timely remit that sales tax reimbursement or use tax to the State Board of Equalization, is liable for a penalty of 50% of the amount not timely remitted, except under certain circumstances.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~-no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 5442.15 is added to the Business and*
2 *Professions Code, to read:*

3 *5442.15. Notwithstanding any other provision of this chapter,*
4 *Section 5440 shall not prohibit an advertising display within the*
5 *redevelopment zone of the City of San Leandro if all of the*
6 *following conditions are met:*

7 *(a) Placement or maintenance of the advertising display does*
8 *not require the immediate trimming, pruning, topping, or*
9 *removal of trees located on a state highway right-of-way to*
10 *provide visibility to the advertising display, unless done as part*
11 *of the normal landscaping maintenance activities that would*
12 *have been undertaken without regard to the placement of the*
13 *display.*

14 *(b) The advertising display shall not advertise products that*
15 *are directed at an adult population, including, but not limited to,*
16 *alcohol, tobacco, gambling, or sexually explicit material.*

17 *(c) At least 50 percent of the advertising on the display shall*
18 *be for businesses located in the redevelopment zone.*

19 *(d) A 10 percent fee based on the revenue collected for*
20 *advertising on the display that is related to businesses located*
21 *outside the redevelopment zone shall be paid to the City of San*
22 *Leandro.*

23 *(e) The advertising display shall not cause a reduction in*
24 *federal aid highway funds, as provided in Section 131 of Title 23*
25 *of the United States Code.*

1 *SEC. 2. The Legislature finds and declares that a special law,*
2 *as set forth in Section 5442.15 of the Business and Professions*
3 *Code, as added by Section 1 of this act, is necessary and that a*
4 *general law cannot be made applicable within the meaning of*
5 *Section 16 of Article IV of the California Constitution because of*
6 *the unique circumstances that exist in the redevelopment zone in*
7 *the City of San Leandro. The facts constituting the special*
8 *circumstances are as follows:*

9 *The physical location of property in the redevelopment zone of*
10 *the City of San Leandro would benefit the City of San Leandro in*
11 *its efforts to revitalize the affected area if the property may be*
12 *used in the manner allowed by Section 1 of this act, with minimal*
13 *disruption of the purposes served by Section 5440 of the Business*
14 *and Professions Code.*

15 ~~SECTION 1. Section 6597 is added to the Revenue and~~
16 ~~Taxation Code, to read:~~

17 ~~6597. (a) (1) Any person who knowingly collects sales tax~~
18 ~~reimbursement, as defined in Section 1656.1 of the Civil Code,~~
19 ~~or who knowingly collects use tax pursuant to Chapter 3~~
20 ~~(commencing with Section 6201), and who fails to timely remit~~
21 ~~that sales tax reimbursement or use tax to the board, shall be~~
22 ~~liable for a penalty of 50 percent of the amount not timely~~
23 ~~remitted.~~

24 ~~(2) This subdivision shall not apply to either of the following:~~

25 ~~(A) Any person whose liability for the unremitted sales tax~~
26 ~~reimbursement or use tax described in paragraph (1) averages~~
27 ~~one thousand dollars (\$1,000) or less per month or does not~~
28 ~~exceed 5 percent of the total amount of tax liability for which the~~
29 ~~sales tax reimbursement or use tax was collected for the period in~~
30 ~~which the tax was due, whichever is greater.~~

31 ~~(B) If a person's failure to make a timely remittance of sales~~
32 ~~tax reimbursement or use tax is due to reasonable cause or~~
33 ~~circumstances beyond the person's control, and occurred~~
34 ~~notwithstanding the exercise of ordinary care and the absence of~~
35 ~~willful neglect, the person shall be relieved of the penalty~~
36 ~~imposed by this subdivision.~~

37 ~~(b) For purposes of this section:~~

38 ~~(1) "Reasonable cause or circumstances beyond the person's~~
39 ~~control" includes, but is not limited to, any of the following:~~

1 ~~(A) The occurrence of a death or serious illness of the person~~
2 ~~or the person's next of kin that caused the person's failure to~~
3 ~~make a timely remittance.~~

4 ~~(B) The occurrence of an emergency, as defined in Section~~
5 ~~8558 of the Government Code that caused the person's failure to~~
6 ~~make a timely remittance.~~

7 ~~(C) A natural disaster or other catastrophe directly affecting~~
8 ~~the business operations of the person that caused the person's~~
9 ~~failure to make a timely remittance.~~

10 ~~(D) The board failed to send returns or other information to~~
11 ~~the correct address of record, that caused the person's failure to~~
12 ~~make a timely remittance.~~

13 ~~(E) The person's failure to make a timely remittance occurred~~
14 ~~only once over a three-year period, or once during the period in~~
15 ~~which the person was engaged in business, whichever time~~
16 ~~period is shorter.~~

17 ~~(F) The person voluntarily corrected errors in remitting sales~~
18 ~~tax reimbursement or use tax collected that were made in~~
19 ~~previous reporting periods and remitted payment of the liability~~
20 ~~owed as a result of those errors prior to being contacted by the~~
21 ~~board regarding possible errors or discrepancies.~~

22 ~~(2) "Sales tax reimbursement" shall also include any sales tax~~
23 ~~that is advertised, held out, or stated to the public or to any~~
24 ~~customer, directly or indirectly, that the tax, or any part thereof,~~
25 ~~will be assumed or absorbed by the retailer.~~

26 ~~(e) This section shall apply to any determination made by the~~
27 ~~board pursuant to Article 2 (commencing with Section 6481),~~
28 ~~Article 3 (commencing with Section 6511), and Article 4~~
29 ~~(commencing with Section 6536).~~